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Patent  
Docket No: 54942USA4A.002*Section*  
*5/25/01*

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Ashok Sengupta, Jeffry L. Jacobs, Matthew T. Scholz, Group Art Unit: 1614  
and Kestutis J. Tautvydas

Serial No.: 09/626,026

Filed: July 27, 2000

Examiner:

For: BIOCIDAL POLYURETHANE COMPOSITIONS AND METHOD OF USE

## CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, Washington, DC 20231 on:

*May 8, 2001*  
Date*Boh M. Lindblom*  
SignatureSUBMISSION OF CORRECTED DECLARATION, POWER OF ATTORNEY  
AND PETITIONBox Missing Parts  
Commissioner for Patents  
Washington, DC 20231

Dear Sir:

The original Declaration, Power of Attorney and Petition filed on November 6, 2000, in the subject application was inadvertently executed containing an error in the spelling of Jeffry L. Jacobs name and the citizenship of Kestutis J. Tautvydas was omitted. The errors have been corrected and Mr. Jacobs and Mr. Tautvydas have executed the enclosed corrected declaration, which the same inventors as the earlier filed declaration.

It is believed that no fee is due, however, in the event a fee is due, please charge it to Deposit Account No. 13-3723.

Registration Number 39,523	Telephone Number 651/737-9138
Date <i>05/07/01</i>	

Respectfully submitted,

By

*Brian E. Szymanski*  
Brian E. SzymanskiOffice of Intellectual Property Counsel  
3M Innovative Properties Company  
P.O. Box 33427  
St. Paul, Minnesota 55133-3427  
Facsimile: (651) 736-3833



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Docket No. 54942USA4A.002

## DECLARATION, POWER OF ATTORNEY, AND PETITION

I, a below named inventor, depose and say that: (1) my residence, citizenship, and mailing address are indicated below; (2) I have reviewed and understand the contents of my patent application, including the claims, as amended by any amendment specifically referred to herein, which is identified as U.S. Patent Application Serial No. 09/626,026, filed July 27, 2000; (3) I believe that the other below named inventors and I are the original, first, and joint inventors or discoverers of the invention or discovery in

## BIOCIDAL POLYURETHANE COMPOSTIONS AND METHOD OF USE

described and claimed therein and for which a patent is sought; and (4) I hereby acknowledge my duty to disclose to the Patent and Trademark Office all information known to me to be material to the patentability as defined in Title 37, Code of Federal Regulations, §1.56.\*

I hereby appoint Gregory D. Allen (Reg. No. 35,048), Alan Ball (Reg. No. 42,286), Scott A. Bardell (Reg. No. 39,594), Carolyn A. Bates (Reg. No. 27,853), Dale A. Bjorkman (Reg. No. 33,084), Colene E. H. Blank (Reg. No. 41,056), Jennie G. Boeder (Reg. No. 28,952), William J. Bond (Reg. No. 32,400), Stephen W. Buckingham (Reg. No. 30,035), John A. Burtis (Reg. No. 39,924), Melissa E. Buss (Reg. No. 47,465), Paul W. Busse (Reg. No. 32,403), Gerald F. Chernivec (Reg. No. 26,537), James D. Christoff (Reg. No. 31,492), Philip Y. Dahl (Reg. No. 36,115), Janice L. Dowdall (Reg. No. 31,201), Lisa M. Fagan (Reg. No. 40,601), Carolyn A. Fischer (Reg. No. 39,091), Yen T. Florczak (Reg. No. 45,163), Darla P. Fonseca (Reg. No. 31,783), Melanie G. Gover (Reg. No. 41,793), Christopher D. Gram, (Reg. No. 43,643), Gary L. Griswold (Reg. No. 25,396), Doreen S. L. Gwin (Reg. No. 35,580), Michaele A. Hakamaki (Reg. No. 40,011), Karl G. Hanson (Reg. No. 32,900), Dean M. Harts (Reg. No. 47,634), Néstor F. Ho (Reg. No. 39,460), Rudolph P. Hofmann, Jr. (Reg. No. 38,187), Jeffrey J. Hohenshell (Reg. No. 34,109), Robert W. Hoke (Reg. No. 29,226), MarySusan Howard (Reg. No. 38,729), Stephen C. Jensen (Reg. No. 35,207), Robert H. Jordan (Reg. No. 31,973), Harold C. Knecht III (Reg. No. 35,576), Kent S. Kokko (Reg. No. 33,931), Douglas B. Little (Reg. No. 28,439), Eloise J. Maki (Reg. No. 33,418), Lisa M. McGeehan (Reg. No. 41,185), Matthew B. McNutt (Reg. No. 39,766), Michelle M. Michel (Reg. No. 33,968), William D. Miller (Reg. No. 37,988), Peter L. Olson (Reg. No. 35,308), Daniel R. Pastirik (Reg. No. 33,025), David B. Patchett (Reg. No. 39,326), Robert J. Pechman (Reg. No. 45,002), Carolyn V. Peters (Reg. No. 33,271), Scott R. Pribnow (Reg. No. 43,869), Ted K. Ringsred (Reg. No. 35,658), Steven E. Skolnick (Reg. No. 33,789), Robert W. Sprague (Reg. No. 30,497), Brian E. Szymanski (Reg. No. 39,523), James J. Trussell (Reg. No. 37,251), Lucy C. Weiss (Reg. No. 32,834), and Kimberly S. Zillig (Reg. No. 46,346) my attorneys and/or agents with full powers (including the powers of appointment, substitution, and revocation) to prosecute this application and any division, continuation, continuation-in-part, reexamination, or reissue thereof, and to transact all business in the Patent and Trademark Office connected therewith; the mailing address and the telephone number of the above-mentioned attorneys and/or agents are

Attention: Brian E. Szymanski  
Office of Intellectual Property Counsel  
3M Innovative Properties Company  
P.O. Box 33427  
St. Paul, Minnesota 55133-3427  
Telephone No. 651/737-9138

The undersigned petitioner declares further that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Wherefore, I pray for grant of Letters Patent for the invention or discovery described and claimed in the aforementioned specification and we hereby subscribe our names to the foregoing specification and claims, declaration, power of attorney, and this petition, on the day set forth below.

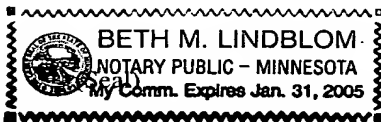
Ashok Sengupta  
Residence: London, Ontario, Canada  
Citizenship: Canadian  
Post Office P.O. Box 33427  
Address: St. Paul, Minnesota 55133-3427

Date

Jeffrey L. Jacobs  
 Jeffrey L. Jacobs  
 Residence: Stillwater, Minnesota, U.S.A.  
 Citizenship: United States of America

STATE OF MINNESOTA )  
 ) ss.  
 COUNTY OF RAMSEY )

On this 26 day of April, 2001, before me personally appeared the above-named Jeffrey L. Jacobs, personally known by me, and known by me to be the person described in and who executed the foregoing instrument, and who acknowledged that said person executed the same as said person's free act and deed, on the day and year aforesaid.



Beth M. Lindblom

Notary Public

Matthew T. Scholz  
 Residence: Woodbury, Minnesota, U.S.A.  
 Citizenship: United States of America

STATE OF MINNESOTA )  
 ) ss.  
 COUNTY OF RAMSEY )

On this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, before me personally appeared the above-named Matthew T. Scholz, personally known by me, and known by me to be the person described in and who executed the foregoing instrument, and who acknowledged that said person executed the same as said person's free act and deed, on the day and year aforesaid.

(Seal)

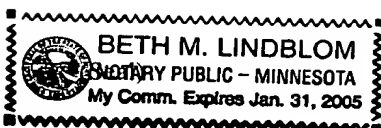
Notary Public

Kestutis J. Tautvydas

Kestutis J. Tautvydas  
 Residence: Lake Elmo, Minnesota, U.S.A.  
 Citizenship: United States of America

STATE OF MINNESOTA )  
 ) ss.  
 COUNTY OF RAMSEY )

On this 26 day of April, 2001, before me personally appeared the above-named Kestutis J. Tautvydas, personally known by me, and known by me to be the person described in and who executed the foregoing instrument, and who acknowledged that said person executed the same as said person's free act and deed, on the day and year aforesaid.



Beth M. Lindblom

Notary Public

**§1.56 Duty to disclose information material to patentability.**

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
- (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

- (1) It establishes, by itself or in combination with other information, a *prima facie* case of unpatentability of a claim; or

- (2) It refutes, or is inconsistent with, a position the applicant takes in:

- (i) Opposing an argument of unpatentability relied on by the Office, or
  - (ii) Asserting an argument of patentability.

A *prima facie* case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

- (1) Each inventor named in the application;
- (2) Each attorney or agent who prepares or prosecutes the application; and
- (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.